

BUREAU OF AUTOMOTIVE REPAIR

SPECIFIC LANGUAGE OF PROPOSED REGULATIONS

PUBLIC INFORMATION DISCLOSURE POLICY

Legend: Deleted text is indicated by ~~striketrough~~.
Added text is indicated by underlining.

1. Amend Section 3303.1 of Article 1 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations, to read as follows:

§ 3303.1. Public Access to License, Administrative Action, and Complaint Information.

(a) ~~It is the policy of the department that information regarding complaints, disciplinary activities and license status shall be made available to any person who requests such information. The following provisions implement departmental policy within the bureau by establishing an information system designed to provide individual members of the consuming public with information about licensees. The bureau will provide information on disciplinary actions, license status and, unless the bureau determines disclosure would be unduly prejudicial to a licensee, complaints.~~

(b) ~~Information About Complaints. In the absence of a waiver of confidentiality signed by the licensee, the bureau will disclose the following complaint information about a particular licensee upon written request:~~

(1) ~~The number and nature of complaints received within the preceding three years which have been found by the bureau to warrant issuance of a Notice of Violation of the bureau's laws or regulations;~~

(2) ~~With respect to each such complaint, its year of receipt and information indicating whether the matter has been:~~

(A) ~~referred for formal disciplinary action;~~

(B) ~~found to involve a minor violation not in itself meriting disciplinary action;~~

(C) ~~disposed of through complaint mediation or referral; or~~

(D) ~~disposed of through any other action, formal or informal, taken against the licensee.~~

~~Each disclosure of complaint information shall be accompanied by such cautionary statements regarding the use and significance of the information provided which the bureau may from time to time specify and which may include such comparative data as the bureau considers~~

informative to requesters.

~~(c) Information About Disciplinary Actions. The bureau will disclose the following disciplinary history information upon request:~~

~~(1) Whether any current license holder has ever been disciplined and, if so, when and for what offense(s); and~~

~~(2) Whether any current license holder has been named in any disciplinary action and, if so, the disposition of such action.~~

~~(d) Information About License Status. The bureau will disclose the following license status information upon request:~~

~~(1) Licensee's name as it appears on the bureau's records, including all fictitious or business names shown thereon;~~

~~(2) License number;~~

~~(3) Address and telephone number of record;~~

~~(4) Date of original licensure; and~~

~~(5) Date(s) such license expired, lapsed or was terminated and, if applicable, the reason for termination.~~

~~(e) When the bureau responds in writing to a request for complaint information, a copy of the information provided to the requester will be sent to the licensee without revealing the identity of the requester.~~

~~(f) Quantity of Information to Be Provided. To avoid undue delay to other requesters and in order that no one requester may overburden the bureau's system, with the exception of requests involving a waiver of confidentiality signed by the licensee, the bureau will provide complaint information to any one requester on no more than three licensees per week.~~

It is the policy of the bureau that information regarding licenses, administrative actions and complaints shall be made available, pursuant to the California Public Records Act (Chapter 3.5 of Division 7 of Title 1 of the Government Code, commencing with Section 6250) to any person who requests that information. The following provisions implement departmental policy within the bureau by establishing an information system designed to provide individual members of the public with information about bureau registrants and licensees. Information subject to public disclosure shall be provided to members of the public, upon request, by telephone, in person, or in writing (including fax or e-mail). The information, when feasible and to the extent required or

permitted by law, shall be made available by the bureau in writing. Requests for information shall be responded to within ten (10) days.

(a) The bureau will disclose the following information, as applicable, regarding past and current registrants or licensees:

(1) The name of the registrant or licensee, as it appears in the bureau's records, including all fictitious or business names shown therein.

(2) The registration or license number.

(3) The address of record.

(4) The date of original registration or licensure.

(5) The current status of the registration or license.

(6) The date the registration or license will expire, or has expired, and, if applicable, the date the registration or license was suspended, revoked, cancelled or otherwise terminated.

(b) The bureau will disclose the following information regarding administrative action taken by the bureau against registrants or licensees:

(1) The total number of administrative actions taken.

(2) A brief summary of the violations alleged in the administrative actions.

(3) The current status of pending administrative actions, if any. Disclosure of pending actions shall contain a disclaimer stating that the pending administrative action(s) against the registrant(s) or licensee(s) is/are alleged and no final legal determination has yet been made. Further disclaimers or cautionary statements regarding pending actions may also be made.

(4) The final disposition, if any, of the administrative actions, including any discipline or penalty imposed. Citations that have been satisfactorily resolved shall be disclosed as such.

(5) Any additional information that is statutorily mandated to be disclosed.

(c)(1) The bureau will disclose complaint information when the Chief, or the Chief's designee, has determined that any of the following conditions have been met:

(A) The complaint information has a direct and immediate relationship to the health and safety of another person.

(B) The complaint involves a dangerous act or condition caused by the subject of the complaint that has or could result in death, bodily injury or severe consequences and disclosure may protect the consumer and/or prevent additional harm to the public.

(C) A series of complaints against a registrant or licensee has been received by the bureau,

alleging a pattern of unlawful activity, and it has been determined that disclosure may help to protect the consumer and/or prevent additional harm to the public.

(D) The complaint has resulted in the issuance of a citation by the bureau.

(E) The allegations in the complaint are part of an administrative action that has been referred to the Attorney General for filing of an Accusation or Statement of Issues.

(F) The complaint has been referred to a law enforcement agency for prosecution.

(2) The bureau will not provide copies of actual complaints and no personal information will be disclosed. Information about a complaint will not be disclosed if it is determined by the Chief or the Chief's designee, that any of the following apply:

(A) Disclosure is prohibited by statute or regulation.

(B) Disclosure might compromise any investigation or prosecution.

(C) Disclosure might endanger or injure the complainant or a third party.

(3) When the conditions for disclosure listed in paragraph (1) of this subsection have been met, and none of the conditions listed in paragraph (2) are found to be applicable, the bureau will disclose the following information regarding complaints received against registrants or licensees:

(A) The total number of complaints that meet the conditions for disclosure.

(B) The date of receipt and the nature of each disclosable complaint.

(C) The disposition of each disclosable complaint, indicating whether the matter has been:

(i) referred for administrative action;

(ii) disposed of through any other action, formal or informal; or

(iii) resolved by other disposition.

(D) Information that is statutorily mandated to be disclosed.

(E) A description of the type of public information not included (i.e., civil judgements, criminal convictions, unsubstantiated complaints).

(4) All disclosures of complaint information shall include disclaimers indicating that the disclosure does not constitute endorsement or non-endorsement of the registrant or licensee, and that not all available information may be included.

(d) For the purposes of this section, "administrative action" shall mean an Accusation or Statement of Issues filed by the bureau, or a Citation issued by the bureau.

Note: Authority cited: Section 9882, Business and Professions Code and Sections 6253, and 6253.4, Government Code. Reference: Sections 27, 129 and 9882, Business and Professions Code, and Sections 6253, 6253.1 and 6254, Government Code.